

AMENDED IN SENATE MAY 26, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 273

**Introduced by Senator Corbett
(Coauthor: Senator Alquist)**

February 24, 2009

An act to amend Sections 124250 and 124251 of the Health and Safety Code, and to amend Section 13823.15 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 273, as amended, Corbett. Domestic violence.

Existing law requires the Maternal and Child Health Branch of the State Department of Public Health to administer a comprehensive shelter-based service grant program to battered women's shelters. Existing law also requires the Office of Emergency Services, *now the California Emergency Management Agency*, to conduct a statewide domestic violence program to provide assistance to victims of domestic violence in unserved and underserved areas. Both of these programs define "domestic violence" to mean the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that woman.

This bill would change the definition of domestic violence under both of the above programs to mean the infliction or threat of physical harm

against past or present adult or adolescent intimate partners, to include physical, sexual, and psychological abuse against the partner, that is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that partner. The bill would also make the department's comprehensive shelter-based service grant program subject to specified antidiscrimination provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 1994, the Legislature enacted the Battered Women
4 Protection Act (BWPA) providing for a comprehensive
5 shelter-based services program for battered women and children.
6 Passage of the BWPA was a recognition of the serious magnitude
7 of domestic violence and the need to provide funding to increase
8 protection for female victims and their children.

9 (b) Despite efforts by the state to address the problem of
10 domestic violence, it remains an issue of serious public concern
11 and growing magnitude. Women, in particular, continue to be
12 victims of domestic violence at a disproportionate rate.

13 (c) In 2006, there were 86 domestic homicides by a spouse or
14 common law partner. The victims included 69 females and 17
15 males.

16 (d) In 2007, there were 119 murders committed in California
17 as the result of intimate partner violence. The victims included
18 101 females and 18 males who were killed by their partners.

19 (e) As of April 2008, there were 246,444 domestic
20 violence-related orders on file with the Department of Justice,
21 including emergency protective orders, temporary restraining
22 orders, orders after hearing, other domestic violence orders, and
23 criminal protective orders.

24 (f) The National Crime Victimization Survey found that women
25 are six times more likely than men to experience violence at the
26 hands of an intimate partner.

27 (g) Many economic risks associated with domestic violence
28 also disproportionately affect abused women, including

1 homelessness, income decline upon separation, and financial
2 dependency on partners.

3 (h) In providing and funding comprehensive shelter-based
4 services to all victims of domestic violence, the state has a
5 compelling interest in acknowledging the quantitative difference
6 in the number of male and female victims, as well as the qualitative
7 differences in the nature of the violence experienced by male and
8 female victims so that resources may be properly allocated.

9 (i) It is the intent of the Legislature that the State Department
10 of Public Health have as purposes and goals that all victims of
11 domestic violence served by the department's Maternal and Child
12 Health Branch receive comprehensive, quality services and that
13 resources are distributed to where there is the most need.

14 SEC. 2. Section 124250 of the Health and Safety Code is
15 amended to read:

16 124250. (a) The following definitions shall apply for purposes
17 of this section:

18 (1) "Domestic violence" means the infliction or threat of
19 physical harm against past or present adult or adolescent intimate
20 partners, and shall include physical, sexual, and psychological
21 abuse against the partner, and is a part of a pattern of assaultive,
22 coercive, and controlling behaviors directed at achieving
23 compliance from or control over, that partner.

24 (2) "Shelter-based" means an established system of services
25 where victims of domestic violence and their children may be
26 provided safe or confidential emergency housing on a 24-hour
27 basis, including, but not limited to, hotel or motel arrangements,
28 haven, and safe houses.

29 (3) "Emergency shelter" means a confidential or safe location
30 that provides emergency housing on a 24-hour basis for victims
31 of domestic violence and their children.

32 (b) The Maternal and Child Health Branch of the State
33 Department of Public Health shall administer a comprehensive
34 shelter-based services grant program to battered women's shelters
35 pursuant to this section. This program shall comport with the
36 requirements of Section 11135 of the Government Code.

37 (c) The Maternal and Child Health Branch shall administer
38 grants, awarded as the result of a request for application process,
39 to battered women's shelters that propose to maintain shelters or
40 services previously granted funding pursuant to this section, to

1 expand existing services or create new services, and to establish
2 new battered women's shelters to provide services, in any of the
3 following four areas:

4 (1) Emergency shelter to victims of domestic violence and their
5 children escaping violent family situations.

6 (2) Transitional housing programs to help victims of domestic
7 violence and their children find housing and jobs so they are not
8 forced to choose between returning to a violent relationship or
9 becoming homeless. The programs may offer up to 18 months of
10 housing, case management, job training and placement, counseling,
11 support groups, and classes in parenting and family budgeting.

12 (3) Legal and other types of advocacy and representation to help
13 victims of domestic violence and their children pursue appropriate
14 legal options.

15 (4) Other support services for victims of domestic violence and
16 their children.

17 (d) (1) The Maternal and Child Health Branch shall conduct a
18 minimum of one site visit per grant term to each agency funded
19 to provide shelter-based services to victims of domestic violence
20 and their children. The purpose of the site visit shall be a
21 performance assessment of, and technical assistance for, each
22 agency visited. The performance assessment shall include, but
23 need not be limited to, a review of all of the following:

24 (A) Progress in meeting program goals and objectives.

25 (B) Agency organization and facilities.

26 (C) Personnel policies, files, and training.

27 (D) Recordkeeping, budgeting, and expenditures.

28 (E) Documentation, data collection, and client confidentiality.

29 (2) Subsequent to each site visit conducted under paragraph (1),
30 the Maternal and Child Health Branch shall provide a written report
31 to the agency summarizing the agency's performance, deficiencies
32 noted, and corrective action needed.

33 (3) If an agency receives funding from both the Maternal and
34 Child Health Branch and the Domestic Violence Program in the
35 ~~Office of Emergency Services~~ *California Emergency Management*
36 *Agency* during any grant cycle, the Maternal and Child Health
37 Branch and the Comprehensive Statewide Domestic Violence
38 Program shall, to the extent feasible, coordinate agency site visits
39 and share performance assessment data with the goal of improving

1 efficiency, eliminating duplication, and reducing administrative
2 costs.

3 (e) In implementing the grant program pursuant to this section,
4 the department shall consult with an advisory council that shall
5 remain in existence until January 1, 2010. The council shall be
6 composed of not to exceed 13 voting members and two nonvoting
7 ex officio members appointed as follows:

8 (1) Seven members appointed by the Governor.

9 (2) Three members appointed by the Speaker of the Assembly.

10 (3) Three members appointed by the Senate Committee on
11 Rules.

12 (4) Two nonvoting ex officio members who shall be Members
13 of the Legislature, one appointed by the Speaker of the Assembly
14 and one appointed by the Senate Committee on Rules. Any
15 Member of the Legislature appointed to the council shall meet
16 with, and participate in the activities of, the council to the extent
17 that participation is not incompatible with his or her position as a
18 Member of the Legislature.

19 The membership of the council shall consist of domestic violence
20 advocates, battered women service providers, and representatives
21 of women's organizations, law enforcement, and other groups
22 involved with domestic violence, and at least one representative
23 of service providers serving the lesbian, gay, bisexual, and
24 transgender community for purposes of domestic violence. At least
25 one-half of the council membership shall consist of domestic
26 violence advocates or battered women service providers from
27 organizations such as the California Partnership to End Domestic
28 Violence.

29 It is the intent of the Legislature that the council membership
30 reflect the ethnic, racial, cultural, and geographic diversity of the
31 state.

32 (f) The department shall collaborate closely with the council in
33 the development of funding priorities, the framing of the Request
34 for Proposals, and the solicitation of proposals.

35 (g) (1) The Maternal and Child Health Branch shall administer
36 grants, awarded as the result of a request for application process,
37 to agencies to conduct demonstration projects to serve victims of
38 domestic violence, including, but not limited to, creative and
39 innovative service approaches, such as community response teams
40 and pilot projects to develop new interventions emphasizing

1 prevention and education, and other support projects identified by
2 the advisory council.

3 (2) For purposes of this subdivision, “agency” means a state
4 agency, a local government, a community-based organization, or
5 a nonprofit organization.

6 (h) It is the intent of the Legislature that services funded by this
7 program include services for victims of domestic violence in
8 underserved communities, including the lesbian, gay, bisexual,
9 and transgender community, and ethnic and racial communities.
10 Therefore, the Maternal and Child Health Branch shall do all of
11 the following:

12 (1) Fund shelters pursuant to this section that reflect the ethnic,
13 racial, economic, cultural, and geographic diversity of the state.

14 (2) Target geographic areas and ethnic and racial communities
15 of the state whereby, based on a needs assessment, it is determined
16 that no shelter-based services for battered women exist or that
17 additional resources are necessary.

18 (i) The director may award additional grants to shelter-based
19 agencies when it is determined that there exists a critical need for
20 shelter or shelter-based services.

21 (j) As a condition of receiving funding pursuant to this section,
22 battered women’s shelters shall do both of the following:

23 (1) Provide matching funds or in-kind contributions equivalent
24 to not less than 20 percent of the grant they would receive. The
25 matching funds or in-kind contributions may come from other
26 governmental or private sources.

27 (2) Ensure that appropriate staff and volunteers having client
28 contact meet the definition of “domestic violence counselor” as
29 specified in subdivision (a) of Section 1037.1 of the Evidence
30 Code. The minimum training specified in paragraph (2) of
31 subdivision (a) of Section 1037.1 of the Evidence Code shall be
32 provided to those staff and volunteers who do not meet the
33 requirements of paragraph (1) of subdivision (a) of Section 1037.1
34 of the Evidence Code.

35 SEC. 3. Section 124251 of the Health and Safety Code is
36 amended to read:

37 124251. (a) The Maternal and Child Health Branch of the
38 State Department of Public Health shall fund, through a competitive
39 selection process determined by the director, at least one agency
40 to provide expert technical assistance and training on domestic

1 violence issues and building agency capacity in order to obtain
2 other funding for services for victims of domestic violence,
3 including, but not limited to, grant writing and building coalitions.

4 (b) The Maternal and Child Health Branch shall fund at least
5 one agency to conduct a statewide evaluation of the services funded
6 through Section 124250.

7 (c) For purposes of subdivision (a), “agency” means a state
8 agency, local government, a community-based organization, or a
9 nonprofit agency.

10 (d) Contracts awarded pursuant to this section are exempt from
11 the competitive bidding requirements of the Public Contract Code.

12 SEC. 4. Section 13823.15 of the Penal Code is amended to
13 read:

14 13823.15. (a) The Legislature finds the problem of domestic
15 violence to be of serious and increasing magnitude. The Legislature
16 also finds that existing domestic violence services are underfunded
17 and that some areas of the state are unserved or underserved.
18 Therefore, it is the intent of the Legislature that a goal or purpose
19 of the ~~Office of Emergency Services (OES)~~ *California Emergency*
20 *Management Agency (Cal EMA)* shall be to ensure that all victims
21 of domestic violence served by the ~~OES~~ *Cal EMA* Comprehensive
22 Statewide Domestic Violence Program receive comprehensive,
23 quality services.

24 (b) There is in the ~~OES~~ *Cal EMA* a Comprehensive Statewide
25 Domestic Violence Program. The goals of the program shall be to
26 provide local assistance to existing service providers, to maintain
27 and expand services based on a demonstrated need, and to establish
28 a targeted or directed program for the development and
29 establishment of domestic violence services in currently unserved
30 and underserved areas. The ~~OES~~ *Cal EMA* shall provide financial
31 and technical assistance to local domestic violence centers in
32 implementing all of the following services:

- 33 (1) Twenty-four-hour crisis hotlines.
- 34 (2) Counseling.
- 35 (3) Business centers.
- 36 (4) Emergency “safe” homes or shelters for victims and families.
- 37 (5) Emergency food and clothing.
- 38 (6) Emergency response to calls from law enforcement.
- 39 (7) Hospital emergency room protocol and assistance.
- 40 (8) Emergency transportation.

1 (9) Supportive peer counseling.

2 (10) Counseling for children.

3 (11) Court and social service advocacy.

4 (12) Legal assistance with temporary restraining orders, devices,
5 and custody disputes.

6 (13) Community resource and referral.

7 (14) Household establishment assistance.

8 Priority for financial and technical assistance shall be given to
9 emergency shelter programs and “safe” homes for victims of
10 domestic violence and their children.

11 (c) Except as provided in subdivision (f), the ~~OES~~ *Cal EMA*
12 and the advisory committee established pursuant to Section
13 13823.16 shall collaboratively administer the Comprehensive
14 Statewide Domestic Violence Program, and shall allocate funds
15 to local centers meeting the criteria for funding. All organizations
16 funded pursuant to this section shall utilize volunteers to the
17 greatest extent possible.

18 The centers may seek, receive, and make use of any funds which
19 may be available from all public and private sources to augment
20 state funds received pursuant to this section.

21 Centers receiving funding shall provide cash or an in-kind match
22 of at least 10 percent of the funds received pursuant to this section.

23 (d) The ~~OES~~ *Cal EMA* shall conduct statewide training
24 workshops on domestic violence for local centers, law enforcement,
25 and other service providers designed to enhance service programs.
26 The workshops shall be planned in conjunction with practitioners
27 and experts in the field of domestic violence prevention. The
28 workshops shall include a curriculum component on lesbian, gay,
29 bisexual, and transgender specific domestic abuse.

30 (e) The ~~OES~~ *Cal EMA* shall develop and disseminate throughout
31 the state information and materials concerning domestic violence.
32 The ~~OES~~ *Cal EMA* shall also establish a resource center for the
33 collection, retention, and distribution of educational materials
34 related to domestic violence. The ~~OES~~ *Cal EMA* may utilize and
35 contract with existing domestic violence technical assistance
36 centers in this state in complying with the requirements of this
37 subdivision.

38 (f) The funding process for distributing grant awards to domestic
39 violence shelter service providers (DVSSPs) shall be administered
40 by the ~~OES~~ *Cal EMA* as follows:

1 (1) The ~~OES~~ *Cal EMA* shall establish each of the following:

2 (A) The process and standards for determining whether to grant,
3 renew, or deny funding to any DVSSP applying or reapplying for
4 funding under the terms of the program.

5 (B) For DVSSPs applying for grants under the request for
6 proposal process described in paragraph (2), a system for grading
7 grant applications in relation to the standards established pursuant
8 to subparagraph (A), and an appeal process for applications that
9 are denied. A description of this grading system and appeal process
10 shall be provided to all DVSSPs as part of the application required
11 under the RFP process.

12 (C) For DVSSPs reapplying for funding under the request for
13 application process described in paragraph (4), a system for grading
14 the performance of DVSSPs in relation to the standards established
15 pursuant to subparagraph (A), and an appeal process for decisions
16 to deny or reduce funding. A description of this grading system
17 and appeal process shall be provided to all DVSSPs receiving
18 grants under this program.

19 (2) Grants for shelters that were not funded in the previous cycle
20 shall be awarded as a result of a competitive request for proposal
21 (RFP) process. The RFP process shall comply with all applicable
22 state and federal statutes for domestic violence shelter funding
23 and, to the extent possible, the response to the RFP shall not exceed
24 25 narrative pages, excluding attachments.

25 (3) Grants shall be awarded to DVSSPs that propose to maintain
26 shelters or services previously granted funding pursuant to this
27 section, to expand existing services or create new services, or to
28 establish new domestic violence shelters in underserved or
29 unserved areas. Each grant shall be awarded for a three-year term.

30 (4) DVSSPs reapplying for grants shall not be subject to a
31 competitive grant process, but shall be subject to a request for
32 application (RFA) process. The RFA process shall consist in part
33 of an assessment of the past performance history of the DVSSP
34 in relation to the standards established pursuant to paragraph (1).
35 The RFA process shall comply with all applicable state and federal
36 statutes for domestic violence center funding and, to the extent
37 possible, the response to the RFA shall not exceed 10 narrative
38 pages, excluding attachments.

39 (5) A DVSSP funded through this program in the previous grant
40 cycle, including a DVSSP funded by Chapter 707 of the Statutes

1 of 2001, shall be funded upon reapplication, unless, pursuant to
2 the assessment required under the RFA process, its past
3 performance history fails to meet the standards established by the
4 ~~OES Cal EMA~~ pursuant to paragraph (1).

5 (6) ~~The OES Cal EMA~~ shall conduct a minimum of one site
6 visit every three years for each DVSSP funded pursuant to this
7 subdivision. The purpose of the site visit shall be to conduct a
8 performance assessment of, and provide subsequent technical
9 assistance for, each shelter visited. The performance assessment
10 shall include, but need not be limited to, a review of all of the
11 following:

12 (A) Progress in meeting program goals and objectives.

13 (B) Agency organization and facilities.

14 (C) Personnel policies, files, and training.

15 (D) Recordkeeping, budgeting, and expenditures.

16 (E) Documentation, data collection, and client confidentiality.

17 (7) After each site visit conducted pursuant to paragraph (6),
18 ~~the OES Cal EMA~~ shall provide a written report to the DVSSP
19 summarizing the performance of the DVSSP, deficiencies noted,
20 corrective action needed, and a deadline for corrective action to
21 be completed. ~~The OES Cal EMA~~ shall also develop a corrective
22 action plan for verifying the completion of corrective action
23 required. ~~The OES Cal EMA~~ shall submit its written report to the
24 DVSSP no more than 60 days after the site visit. No grant under
25 the RFA process shall be denied if the DVSSP has not received a
26 site visit during the previous three years, unless ~~the OES Cal EMA~~
27 is aware of criminal violations relative to the administration of
28 grant funding.

29 (8) If an agency receives funding from both the Comprehensive
30 Statewide Domestic Violence Program in the ~~Office of Emergency~~
31 ~~Services~~ *California Emergency Management Agency* and the
32 Maternal and Child Health Branch of the State Department of
33 Public Health during any grant cycle, the Comprehensive Statewide
34 Domestic Violence Program and the Maternal and Child Health
35 Branch shall, to the extent feasible, coordinate agency site visits
36 and share performance assessment data with the goal of improving
37 efficiency, eliminating duplication, and reducing administrative
38 costs.

39 (9) DVSSPs receiving written reports of deficiencies or orders
40 for corrective action after a site visit shall be given no less than

1 six months' time to take corrective action before the deficiencies
2 or failure to correct may be considered in the next RFA process.
3 However, the ~~OES~~ *Cal EMA* shall have the discretion to reduce
4 the time to take corrective action in cases where the deficiencies
5 present a significant health or safety risk or when other severe
6 circumstances are found to exist. If corrective action is deemed
7 necessary, and a DVSSP fails to comply, or if other deficiencies
8 exist that, in the judgment of the ~~OES~~ *Cal EMA*, cannot be
9 corrected, the ~~OES~~ *Cal EMA* shall determine, using its grading
10 system, whether continued funding for the DVSSP should be
11 reduced or denied altogether. If a DVSSP has been determined to
12 be deficient, the ~~OES~~ *Cal EMA* may, at any point during the
13 DVSSP's funding cycle following the expiration of the period for
14 corrective action, deny or reduce further funding.

15 (10) If a DVSSP applies or reapplies for funding pursuant to
16 this section and that funding is denied or reduced, the decision to
17 deny or reduce funding shall be provided in writing to the DVSSP,
18 along with a written explanation of the reasons for the reduction
19 or denial made in accordance with the grading system for the RFP
20 or RFA process. Except as otherwise provided, an appeal of the
21 decision to deny or reduce funding shall be made in accordance
22 with the appeal process established by the ~~OES~~ *Cal EMA*. The
23 appeal process shall allow a DVSSP a minimum of 30 days to
24 appeal after a decision to deny or reduce funding. All pending
25 appeals shall be resolved before final funding decisions are reached.

26 (11) It is the intent of the Legislature that priority for additional
27 funds that become available shall be given to currently funded,
28 new, or previously unfunded DVSSPs for expansion of services.
29 However, the ~~OES~~ *Cal EMA* may determine when expansion is
30 needed to accommodate underserved or unserved areas. If
31 supplemental funding is unavailable, the ~~OES~~ *Cal EMA* shall have
32 the authority to lower the base level of grants to all currently funded
33 DVSSPs in order to provide funding for currently funded, new, or
34 previously unfunded DVSSPs that will provide services in
35 underserved or unserved areas. However, to the extent reasonable,
36 funding reductions shall be reduced proportionately among all
37 currently funded DVSSPs. After the amount of funding reductions
38 has been determined, DVSSPs that are currently funded and those
39 applying for funding shall be notified of changes in the available

1 level of funding prior to the next application process. Funding
2 reductions made under this paragraph shall not be subject to appeal.

3 (12) Notwithstanding any other provision of this section, ~~OES~~
4 *Cal EMA* may reduce funding to a DVSSP funded pursuant to this
5 section if federal funding support is reduced. Funding reductions
6 as a result of a reduction in federal funding shall not be subject to
7 appeal.

8 (13) Nothing in this section shall be construed to supersede any
9 function or duty required by federal acts, rules, regulations, or
10 guidelines for the distribution of federal grants.

11 (14) As a condition of receiving funding pursuant to this section,
12 DVSSPs shall do all of the following:

13 (A) Provide matching funds or in-kind contributions equivalent
14 to not less than 10 percent of the grant they would receive. The
15 matching funds or in-kind contributions may come from other
16 governmental or private sources.

17 (B) Ensure that appropriate staff and volunteers having client
18 contact meet the definition of “domestic violence counselor” as
19 specified in subdivision (a) of Section 1037.1 of the Evidence
20 Code. The minimum training specified in paragraph (2) of
21 subdivision (a) of Section 1037.1 of the Evidence Code shall be
22 provided to those staff and volunteers who do not meet the
23 requirements of paragraph (1) of subdivision (a) of Section 1037.1
24 of the Evidence Code.

25 (15) The following definitions shall apply for purposes of this
26 subdivision:

27 (A) “Domestic violence” means the infliction or threat of
28 physical harm against past or present adult or adolescent intimate
29 partners, including physical, sexual, and psychological abuse
30 against the partner, and is a part of a pattern of assaultive, coercive,
31 and controlling behaviors directed at achieving compliance from
32 or control over that person.

33 (B) “Domestic violence shelter service provider” or “DVSSP”
34 means a victim services provider that operates an established
35 system of services providing safe and confidential emergency
36 housing on a 24-hour basis for victims of domestic violence and
37 their children, including, but not limited to, hotel or motel
38 arrangements, haven, and safe houses.

1 (C) “Emergency shelter” means a confidential or safe location
2 that provides emergency housing on a 24-hour basis for victims
3 of domestic violence and their children.

4 (g) The ~~ΘES~~ *Cal EMA* may hire the support staff and utilize all
5 resources necessary to carry out the purposes of this section. The
6 ~~ΘES~~ *Cal EMA* shall not utilize more than 10 percent of funds
7 appropriated for the purpose of the program established by this
8 section for the administration of that program.

O